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THE NINETEENTH BIENNIAL REPORT *of the* JUDICIAL COUNCIL *of* THE STATE OF NEW HAMPSHIRE

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INTRODUCTION

by

George W. Walker, Esquire
Chairman, Judicial Council

Today, as never before, participants in and observers of our judicial system feel a crisis is on our doorstep. A growing population, rise in crime, decline in revenues, carnage on our highways, proliferation of new laws, ordinances and regulations at every level, and similar factors contribute to congestion in the Courts. Chief Justice McLaughlin of Massachusetts not too long ago in addressing the United States Senate stated that to cope with the Superior Court backlog, his judges were forced to negotiate with criminal defendants. More recently, Chief Justice Dunfey informed the New Hampshire Legislature that unless remedial action was taken, Superior Court judges might be forced to wholesale dismissals of pending criminal cases for lack of a speedy trial. The constitutional emphasis on criminal trials has relegated civil litigants at the Superior Court level to second-class citizenship in our courts of general trial jurisdiction. The New Hampshire Supreme Court's speedy trial guidelines require that no more than 60 days should elapse between arrest and indictment and no more than nine months between indictment and trial. However, it is not uncommon for jury trials in civil cases to be delayed two years or more. All this is forcing a hard look at present procedures.

By nature and training, judges and attorneys are good analysists and logicians and, collectively, should take steps within their control to improve the system. The institution and prolongation of non-meritorious litigation should be discouraged, if necessary, by the awarding of attorneys' fees to the prevailing party. Realistic scheduling of preparatory matters and trials should be strictly adhered to. Double trials for violations and misdemeanors should be eliminated.

In many, if not most, of the less serious offenses, prosecutors know in advance whether or not upon conviction they will recommend an actual jail sentence or if the court is likely to impose one if recommended. Where no actual jail sentence is likely to be imposed, the requirement and expense of counsel for indigent defendants could be eliminated, either by statutorily permitting prosecution of misdemeanors as violations or by prosecutors selectively downgrading offenses within the present rules.

Legislative changes will be required in many areas, first and foremost of which is the necessity of increased judges for the Superior Court. Enlargement of jurisdiction of the presently under-utilized District and Probate Courts deserves high priority. Legislatively mandated counsel at public expense in such areas as guardians and juveniles deserves review and re-thinking.

These areas and more can be changed for the better and the present public concern both makes possible and impels the decision-makers to bring about meaningful progress.

REMARKS

by

The Honorable William W. Treat
Past-Chairman, Judicial Council
June 1976 - January 1983

It is a tragic irony that the United States, the most lawyered of all countries (it is estimated that we have three quarters of all the lawyers in the world) has a court system that is often the least accessible. Both civil and criminal cases crowd our dockets. Litigants are required to wait months and often years before cases are called for hearing.

Given the constraints, both financial and systemic, built into our government structure, how do we cope with the bulging caseload and make our courts more accessible to the public?

There is an extremely promising area for relief from court congestion through the use of alternative dispute-resolution methods. As our society has become more complex and more ridden with rules and regulations, whole areas of litigation have evolved concerning environmental issues, zoning and planning disputes, and an endless array of appeals from governmental regulations. Certainly not all of these matters require resort to a formal adjudicative process.

In 1980 Congress passed legislation to set up a Dispute Resolution Center and to provide for federal grants to the states in support of their programs. Congress passed the legislation and it stands on the books but no funds have been appropriated. Such lack of funding, however, should not prevent far-sighted groups within the state from exploring methods of mediation, arbitration, and other dispute-resolving mechanisms.

The criminal case volume has exploded in recent years. Rather than streamlining the paradigmatic jury trial and generally simplifying the criminal process, Americans over the past few decades have greatly increased the complexity of criminal procedure. Desiring to protect individual autonomy, courts have developed companion litigation to the conventional one of deciding on the defendant's guilt or innocence. Mostly constitutional in nature, issues in this companion litigation have enormously expanded adjudicative possibilities at a time when case loads are increasing. The lacing of the criminal process with additional safeguards to protect the individual is in the best tradition of American liberalism but it has enormously expanded litigation.

The increasingly refined and complex American criminal process has developed simultaneously not only with an enlarged volume of crime, but also with an effort to secure legal aid to the indigent. Taking advantage in all cases of the full litigation potential is financially impossible, both for the prosecution and the defense. Therefore, as is well known, the bulk of criminal cases are adjudicated without trial through negotiated guilty pleas.

How do we improve the quality of the judiciary? An adequate compensation system in the judiciary is essential, but the correlation between judicial quality and levels of compensation has not been thoroughly established. Levels of judicial quality are determined by many factors, not the least of which is the merit selection process. Political considerations, despite all of their evil connotations, are not wholly irrelevant to a selection process, but the choice of good judges must be based primarily on desiderata of temperament and intellect. The public is not convinced that these considerations are dominant in the judicial selection process.

What is the public perception of our courts and judges? In 1978 the National Center for State Courts commissioned the research firm of Yankelovich, Skelley, and White to conduct a national survey of our courts and the judiciary as they are perceived in relation to other institutions in our society. Only 23% indicated that they were "very confident" of our state courts and judges. This is the same degree of confidence as Congress and organized labor but considerably less than the local police force (40%) and American business (39%). Of even more significance, state courts and judges had a negative rating of 37% as compared to American business (22%) and local police (28%).

And, to be candid, it must be admitted that the judiciary itself is often its own worst enemy in efforts for judicial reform. As Robert Ardrey pointed out long ago people are reluctant to give up their turf if it is perceived that this would in some way work to their disadvantage. Judges, like other bureaucrats have a high heirarchical awareness and a recurrent case of turf consciousness. Efforts to alter jurisdictional lines in order to accomplish better delivery of justice are often thwarted because of the territorial imperatives of the judiciary.

Justice Douglas of our Supreme Court in an address to the New Hampshire Legislature in November of 1982 suggested that the Legislature "write a cheque for more judges." Additional funding for the judicial branch will always be helpful but never quite adequate. The green poultice is a marvelous balm for most governmental agencies, but as Justice Douglas would probably also say, there are other approaches that would likewise be helpful.

Justice Douglas rightly frowns upon the expansion of the nonconstitutional judiciary through the expanding Masters system and urges the Legislature to "rejudicialize" the judicial branch. He mentions with approval the decade-long struggle of the Judicial Council for a full-time judiciary.

Indeed, the efforts of the Judicial Council and the Legislature to create a professional and full-time judiciary at the district and municipal court level has met with slow but steady progress. The number of courts has been reduced substantially and it is probably true today that well over half of the cases at the district and municipal court level are now being adjudicated before full-time courts.

The Probate Court remains a part-time judiciary. Not only that, but it retains a judicial fee system long ago abandoned in nearly every state in the Union. The Probate Court has been neglected but study groups have not overlooked its needs. The Judicial Council, the National Center for State Courts, and the King Commission on Court Improvement have all recommended at various times that the Probate Court embrace jurisdiction over marital causes--virtually the only family-related issues not already part of the Probate Court system. The arguments are incontrovertible: consolidation of family matters in a noncriminal court atmosphere; removal of family cases from the nonconstitutional judiciary to a full-time specialized family court judiciary; elimination of confusion between custody and guardian issues; and the development of full-time professional judiciary within the Probate Court system, permitting judges to train in a specialized area of family court law.

The Council is in a unique position to advance the cause of improved judicial administration because it is not merely another area of the judiciary but a balanced amalgam of the Bar, the public, and the judiciary.

For nearly four decades the Judicial Council of New Hampshire has played a key role in analyzing major legislative proposals affecting the court system and served as a catalyst in the improvement of judicial administration. Although the Council has maintained a low profile with a minimum of publicity, its contribution to an evolving professional court system has been substantial.

Those who have participated closely in Judicial Council activities and who have shared the Council's concern for improved judicial administration have frequently expressed their support and admiration for the work of the Council.

Chief Justice Frank R. Kenison, who served longer than any other person as a member of the Judicial Council, stated shortly before his death, "Having served on the Judicial Council for more than twenty-five years from 1952 to 1977 representing the New Hampshire Supreme Court and some years as Attorney General prior to that period, I can attest to its significant and dedicated contributions to the legislative and judicial branches of state government."

The late Chief Justice William W. Keller of the Superior Court was an active member of the Council while he was head of the trial court system. He stated, "In my opinion the Council is doing excellent work, and is an indispensable part of the Judicial System in New Hampshire. I have always been impressed by the thoroughness of the studies of the various matters acted on by the Council, and the quality of the reports submitted by the Committees."

Three quarters of the states have judicial councils. Normally the judicial council includes in its membership, as it does in New Hampshire, representatives of the various courts as well as prominent attorneys and at least one nonlawyer. In some states, such as

California, the Judicial Council is the governing body for the entire state judiciary. More frequently, the Council works cooperatively with branches of the judicial department of government to bring together the views of the Bar, the public, and the judiciary.

In a state such as New Hampshire with a long tradition of decentralized government there is a strong aversion to an excessive concentration of authority at the state level. Consequently, the Council serves a valuable purpose in bringing about a consensus of viewpoints from the divergent segments of our society and at the same time taking advantage of the benefits of "general superintendence" of the state court system by the Supreme Court.

During the last ten years the role of the Judicial Council in our state government has expanded significantly. In the first quarter century of its existence the Council was primarily a reactive body. It responded to requests from the Legislature, and others, by analyzing proposed legislation and appearing before legislative committees in support or opposition to bills affecting our court system. In the last ten years it has breathed new life into the legislative mandate instructing the Council on its "own motion" to make "such changes in the law or in the rules, organization, operation or methods of conducting the business of the courts, or with respect to any other matter pertaining to the administration of justice, as it may deem desirable."

To carry out its more active role the Council has undertaken certain changes. In 1980 it adopted for the first time a set of by-laws which assure management of Council affairs in accordance with appropriate organizational standards. Among other provisions, the by-laws state that the Chairman shall not serve more than two consecutive terms of two years each. This provision has the advantage of bringing a fresh outlook to the administration of the Council affairs at least quadrennially.

In addition, in April of 1982 the Council undertook for the first time to conduct a thorough review of its compliance with its statutory mandates and to establish guidelines for the future direction of Council activities. Principal Council functions include: continual survey and study of the courts; receipt and investigation of criticisms and suggestions; promotion of simplified procedures, expedited court business, and administrative improvement; the analysis and publication of court statistics and supervision of the assigned counsel system. For several years the Council also administered the Indigent Defense program but the General Court concluded in 1981 that this was a function more properly assigned to the Office of the State Comptroller.

As discouraging as it may seem at times, the pursuit of justice and the efforts toward the improvement of judicial administration, however slow and tortuous, are worth the candle. For those of us who love the law know that the pursuit of justice is indeed one of the noblest causes of mankind.

While the collective efforts of members of the Judicial Council may seem small indeed, the cumulative contributions of the Council over the past three decades has been monumental. The Council is now on the threshold of far greater accomplishments in the years ahead.

Under the leadership of George W. Walker, newly elected Chairman, and Jack B. Middleton, newly elected Vice-Chairman, the Council will reach new heights in its contribution to the cause of judicial administration. They deserve the support of all of us who are committed to the cause of justice.

REPORT OF THE EXECUTIVE DIRECTOR

Since its last biennial report the Judicial Council has undergone several changes. At the request of the Council, the Legislature transferred the responsibility for administering indigent defense payments back to the Office of the Comptroller where the fund had been administered prior to 1977. This transfer was completed by August of 1981.

At the same time, the Council assumed a new responsibility to contract with and to supervise a public defender on behalf of the State.[1] Negotiations with New Hampshire Legal Assistance took place during July of 1981, and a contract expanding public defender representation to all ten counties was approved by Governor and Council on August 12, 1981. The contract provides for payment of $1,093,800 in fiscal year 1982 and $1,300,000 in fiscal year 1983. It includes an increase in staff from 11 to no less than 26 attorneys and an expansion of the program to provide representation in homicide cases and appellate cases in all ten counties.

The contract also authorizes the Public Defender Program to subcontract for attorney services on a caseload basis. The Council has reviewed and approved such contracts covering Statewide appellate services and defender services in the Grafton, Coos, and Northern Carroll Counties.

The Council has met regularly with the Public Defender Director to review staffing plans, quarterly caseload statistics, and the operation of the program. In the Spring of 1982, the Council and New Hampshire Legal Assistance re-negotiated the contract signed on August 12, 1981, reducing the fourth quarter payment by $212,361. This amount, which represented funds uncommitted due to hiring delays, was thereby made available for transfer to the private assigned counsel program which was then running a deficit.

Other duties in conjunction with Public Defender supervision include correspondence with the Courts and continuing efforts to make data available for predicting future needs for indigent defense. This year the Council has been instrumental in proposing a new statute which, if adopted, will codify data collection procedures.[2]

The Council has completed its revision of the statistical format submitted by the Superior and District Courts. An explanation of these changes accompanies the statistical report contained herein.

During the first year of the 1981-1982 biennium the Council reviewed its statutory mandate and reassessed its role in the light of administrative changes in the court system. Research on the work of other Judicial Councils and consultation with the National Center of State Courts laid the groundwork for an all-day planning meeting held

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[1] N.H. Laws of 1981, Chapter 568:19.

[2] House Bill 527 (1983).

in April, 1982, at which the Council members concluded that it should continue and expand its legislative role and that it should provide a forum for "legislative leaders, other government leaders, court and Bar leaders, and leading citizens to discuss issues related to the administration of justice as a step toward positive action."

The National Center for State Courts assisted the Council in its review and submitted a report which concluded that "the Judicial Council's overall purpose should be to look at the court system as a whole from a balanced perspective not controlled by court system interests, to provide liaison from the court system to the legislative and executive branches of government, and to provide access for members of the public to criticize and make suggestions regarding the administration of justice (including the courts, the Attorney General's office, county attorneys' offices, and the prison and houses of correction)."[3]

In furtherance of these goals, the Council began work on New Hampshire's first Citizens' Conference on the Administration of Justice which was held on January 7, 1983. It was conducted with assistance from the American Judicature Society and by means of private funding. More than 200 citizens attended the conference to discuss four issues related to the justice system in New Hampshire: the indigent defense program, the workload of the Superior Court, mandatory sentences in relation to DWI issues, and the quality of criminal prosecution in the State.[4]

Because the response to the conference was so encouraging and in anticipation of another conference next winter, the Council has planned a public hearing in April, 1983, to which the public and State officials have been invited to raise issues of concern to them.

In addition to the legislative reports presented in the following pages, the Council has reviewed numerous legislative proposals during the 1981 Regular Session and the 1982 Special Session of the General Court. The Council opposed a bill that would have reduced civil juries to six members, a bill to create a new District Court for Pittsfield, and a measure to change criminal sentencing provisions. In its statement to the General Court regarding sections 2 through 20 of an amendment to House Bill 20 (1982), the Council stated that it opposed this proposed revision of the criminal sentencing statutes because

1) it attempts to correct the public perception by making semantic changes which may not produce the desired result, and
2) it may delay thorough review which will lead to fundamental change.

Although this amendment was ultimately adopted, the final version was less far-reaching than the original.

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[3] National Center for State Courts, "White Paper for the Judicial Council," submitted December 5, 1982.

[4] See "Report of the Citizens' Conference on the Administration of Justice," February, 1983.

The Council continues to monitor proposed legislation and to respond to legislative requests for review of specific bills. During the 1983 Regular Session the Council is giving special attention to DWI proposals and to House Bills 200, 496 and 650 submitted at the request of the Supreme Court. The members, who serve without compensation, met twelve times during 1981 and 1982 in addition to subcommittee meetings and appearances before legislative committees.

Jo Ellen Orcutt
Executive Director

STATEMENT OF PURPOSE

April 9, 1982

Purpose

Consistent with the terms of RSA 494:3, it shall be the purpose of the New Hampshire Judicial Council to serve as a catalyst for continued improvement of the administration of justice in the State of New Hampshire.

Scope of Concerns

Taking full advantage of its statutory authority, the Judicial Council shall take a broad view of the administration of justice in New Hampshire, with no arbitrary exclusion of any element of the system. While details of administration and operation must necessarily be addressed amidst the Council's consideration of larger issues, the Council shall not concern itself with the day-to-day management of the court system. Except as they bear on the administration of justice, the Council shall not concern itself with programs in the executive branch of New Hampshire state and local government.

Role

The Judicial Council's primary role shall be to deal with legislation affecting the administration of justice. In this respect, the Council shall perform both an active and reactive function: in addition to initiating legislation to serve the continued improvement of the administration and operation of the courts, the Council shall be available to assist the General Court in such matters and to assist the courts or justice-related groups or agencies in legislative matters.

The Council's unique composition and broad perspective make it an ideal body to work with court-related entities in matters of administration of justice that go beyond the narrower perspectives of such entities. By both formal and informal means, the Council shall provide a forum for individuals and groups to bring matters of concern and a setting in which participants can agree on ways to modify practices and procedures to serve the ends of the justice system.

Implementation

In furtherance of its purpose and role, the Judicial Council shall undertake activities including, but not limited to, the following:

(A) Initiation of a diverse legislative program, consisting of major proposals that arise from the Council's broad perspective and reflecting long-term considerations relating to the ends of the justice system.

(B) Defense of basic constitutional and legal principles at all times, paying particular attention to proposed constitutional amendments and to legislative proposals that may affect constitutional rights.

(C) Assistance to courts or court-related groups with legislative requests, including availability to take positions on legislation when the courts themselves cannot properly do so.

(D) On issues that the Council decides to address, provision of recommendations to the General Court and to justice-related entities regarding issues in the administration of justice.

(E) Conduct of a biennial conference on the administration of justice, prior to commencement of the Regular Session of the General Court, with participation of knowledgeable and influential persons to discuss important issues related to the administration of justice.

(F) At its regular meetings, provision of a forum for such invitees as legislative leaders, other government leaders, court and Bar leaders, and leading citizens to discuss issues related to the administration of justice as a step toward positive action regarding such issues.

(G) Conduct of surveys and studies of the administration of justice in the State by members of the Council and its staff, if need be in cooperation with or with the assistance of interested individuals, groups, or organizations.

STANDING COMMITTEES

Committee on Court Procedures

Judge Dunfey, Chairman
Judge Cushing
Douglas S. Hatfield

Committee on Executive-Legislative-Judicial Relations

Jack B. Middleton, Chairman
Attorney General Gregory Smith
Sandra F. Smith

Committee on Form and Style

Donald E. Mitchell, Chairman
Frank E. Kenison, Jr.

Committee on Innovations

Judge Brock, Chairman
John M. Safford

Committee on Judicial Statistics

Marilyn B. McNamara

SPECIAL COMMITTEES

CACR 13, providing legal counsel to indigent defendants as a condition of imprisonment

and

CACR 14, providing that the General Court shall establish the rate of payment for State-appointed counsel for indigent defendants

Jack B. Middleton, Chairman
Attorney General Gregory Smith
Donald E. Mitchell

House Bill 629, regarding restitution by parents or legal guardians of children found to have committed burglary, robbery, or theft

Douglas S. Hatfield, Chairman
Marilyn B. McNamara
Paul McEachern

House Bill 671, eliminating appeals to the Superior Court of convictions of violations in District and Municipal Courts

John M. Safford, Chairman
George W. Walker

House Bill 430, establishing a Pittsfield District Court

Deputy Attorney General Deborah Cooper

Committee to Study Medical Malpractice

Donald E. Mitchell

Committee to Supervise the Public Defender Program

George W. Walker, Chairman
Jack B. Middleton
Donald E. Mitchell

CACR 13 (1981)

PROVIDING LEGAL COUNSEL TO INDIGENT DEFENDANTS
AS A CONDITION OF IMPRISONMENT

Not Recommended

CACR 13 would amend Part First, Article 15 of the New Hampshire Constitution by making certain changes in the last sentence of that Article. The last sentence of the present Article, as amended in 1966, provides as follows:

> "... Every person held to answer in any crime or offense punishable by deprivation of liberty shall have the right to counsel at the expense of the state if need is shown; this right he is at liberty to waive, but only after the matter has been thoroughly explained by the court."

CACR 13 would strike out the last sentence of the present Article, as amended in 1966, and substitute in place thereof, the following:

> "Absent a knowing and intelligent waiver, no person may be deprived of liberty for any crime or offense, unless represented by counsel at trial."

Article 15 presently provides counsel at State expense to every defendant held to answer in any crime or offense punishable by imprisonment. CACR 13 would provide counsel at State expense only when a criminal proceeding results in the deprivation of a defendant's liberty.

Article 6 of the United States Constitution provides:

> "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have previously been ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."
> (Emphasis added.)

The Supreme Court of the United States has declared that the right to be represented by counsel in criminal proceedings is a fundamental right. In the landmark case of Gideon v. Wainwright, 372 U.S. 335, 344 (1963), the Court declared:

> "Reason and reflection require us to recognize that in our adversary system of criminal justice, any person haled into court who is too poor to hire a lawyer cannot be assured a

fair trial unless counsel is provided for him. This seems to us to be an obvious truth . . . The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries but it is in ours."

In Gideon, the Court held that under the Sixth Amendment the right to counsel was applicable to states and that indigent defendants in noncapital felony cases were entitled to court-appointed counsel. Nine years later, the Supreme Court in Argersinger v. Hamelin, 407 U.S. 25 (1972), held that absent a knowing and intelligent waiver, no person may be imprisoned for any offense, whether classified as petty, misdemeanor or a felony, unless he was represented by counsel at the trial.

Following the Supreme Court's decision in Argersinger, some courts held that counsel had to be appointed in all cases in which a defendant faced the possibility of imprisonment, while others held that counsel was only necessary in the case of actual imprisonment. These doubts were resolved seven years later, when, in Scott v. Illinois, 440 U.S. 367 (1979), the Supreme Court held that the Sixth and Fourteenth Amendments required only that no indigent criminal defendant be sentenced to a term of imprisonment unless the state had afforded him the right to assistance of appointed counsel in his defense.

Part I, Article 15 of the New Hampshire Constitution was amended in 1966 by the addition of the last sentence, which specifically provides for counsel at the expense of the State in all crimes punishable by imprisonment. In State v. Chase, 109 N.H. 296 (1969), the New Hampshire Supreme Court construed the Constitutional provision as requiring counsel in cases of misdemeanors, as well as felonies.

The Legislature in 1965 enacted R.S.A. 604-A, to provide "adequate representation for indigent defendants in criminal cases." See also R.S.A. 169-B. In recent years, the defense of indigents has been supplemented by creation of a Public Defender system. See Laws of 1973, Chapter 463; Laws of 1975, Chapter 505; Laws of 1976, Chapter 19, etc.

CACR 13 would, in effect, require the appointment of counsel only in those instances where the defendant is actually imprisoned, as opposed to requiring appointment of counsel in all cases involving crimes which authorize imprisonment. As mentioned above, the present provision has been held to require the appointment of counsel in all cases in which imprisonment is authorized:

"The language of our constitution does not rest the right to counsel upon punishment of imprisonment but gives the right to every person accused of a crime 'punishable' by deprivation of liberty 'whether or not such punishment is imposed . . .' [W]e have been diligent to afford individuals the greater right to counsel afforded by our Constitution beyond those afforded by the Federal Constitution." State v. Clough, 115 N.H. 7, 10 (1975).

To the extent that CACR 13 would change the New Hampshire Constitution so that the appointment of counsel is only required in cases in which the defendant is actually imprisoned, this would not violate the right to counsel provision of the United States Constitution. Scott v. Illinois, supra.

While the proposed amendment would not violate the provisions of the United States Constitution as interpreted by the United States Supreme Court, it is apparent that the proposed amendment would have a substantial effect upon the criminal justice system in New Hampshire, as developed over the years by the Legislature in providing for enhanced sentences. The New Hampshire Legislature has adopted a statutory scheme which depends upon the validity of prior convictions for a range of future penalties and sentencing options. Arguably, prior convictions valid under Scott v. Illinois, supra, are not valid for all purposes where the prior conviction is employed in future sentencing or other disposition. Baldazar v. Illinois, 446 U.S. 222 (1980). In Baldazar the Court held that an uncounseled misdemeanor conviction may not be used under an enhanced penalty statute to convert a subsequent misdemeanor into a felony with a prison term. In concurring opinions, the Court considered an Illinois statute which provided a completely different range of sentencing options, including a substantially longer term of imprisonment, for subsequent conviction of the same offense. The sentence the defendant received would not have been authorized by statute but for the previous conviction. The court took the view that the second enhanced sentence was imposed as a direct consequence of the uncounseled conviction and was forbidden under Scott, supra. In New Hampshire, R.S.A. 262-A:62, which requires imprisonment on conviction for driving while intoxicated, second offense, depends upon the validity of the first conviction. If the defendant was not represented by counsel, or did not intelligently and validly waive counsel in the first conviction, the second prosecution cannot result in the enhanced punishment provided by R.S.A. 262-A:62. See State v. Maxwell, 115 N.H. 363 (1975); Baldazar v. Illinois, supra.

Other criminal statutes which provide for suspended sentences, and extended sentences, etc., R.S.A. 651:21, 651:6, for example, depend upon the validity of the initial conviction. There are a number of potential effects on sentencing in ordinary sentencing hearings and in annulment hearings as well. Thus, although the proposed amendment would comply with Federal Constitutional standards, it would have a substantial impact in other areas of the administration of the criminal justice system.

In Scott v. Illinois, supra, the Supreme Court of the United States apparently contemplated that judges with indigent misdemeanor defendants before them could, prior to trial, predict with some efficiency and accuracy whether or not if convicted, the defendant would be sentenced to jail. The Supreme Court contemplated a decision at that time as to whether or not counsel should be appointed to represent an indigent defendant. CACR 13 would require judges and prosecutors in New Hampshire to indulge in such predictive pretrial sentencing procedures. If counsel were not appointed and

after hearing the evidence the judge decided to change his mind, the convicted defendant could not be imprisoned because he had not had counsel to represent him. This result would obviously be counterproductive, and the ends of justice would not be served. Such a result would be a detriment to the citizens of New Hampshire. At least two states have prohibited the use of pretrial predictive hearings and have required counsel for all defendants for whom imprisonment is authorized. "We reject the idea that a court can determine in advance of trial what punishment will be. Such a procedure would violate every concept of due process." McInturf v. Horton, 85 Wash.2d 704, 706, 538 A.2d 499, 500 (1975). See also, State ex rel Winnie v. Harris, 75 Wisc.2d 547, 556, 249, N.W. 2d 791, 795 (1977).

It has been argued that a judge needs to make a personalized informed decision as to sentencing. The possibilities of prejudice when a judge learns before trial such presentencing information as the defendant's arrest record and the aggravating circumstances and the like, could substantially affect this procedure. The United States Supreme Court has emphasized the importance of assuring that a sentencing judge have possession of "the fullest information possible concerning the defendant's life and characteristics." Williams v. New York, 337 U.S. 241, 247 (1949).

Thus it may be that the use of this information at a sentencing hearing prior to trial will be found violative of due process of law, and such predictive hearings may necessarily be so sharply limited that no informed pretrial decision can be made. Certainly the pretrial publicity which may result from such a hearing is a very real problem of due process of law.

On the other hand, it could be argued that in the general run of misdemeanor cases, the participants know beforehand whether or not jail time will be recommended or, in fact, imposed by the judge when convicted. It is rare that first-time offenders are sentenced to jail. And it is rare that those misdemeanors which the judicial system views as closer to violations will result in the imposition of a jail sentence. The inherent problem is weighing the theoretical disadvantages of predictive pretrial sentencing against the practical realities of how the judicial system works.

Statistics available indicate that only between 7-11% of those convicted of misdemeanors are actually imprisoned. The practical realities may be that prediction of imprisonment is less of a problem than the effect upon the legislative scheme for enhanced sentencing.

CONCLUSION

It is our opinion that CACR 13 would violate neither the State nor Federal Constitution. It is, however, our further view that this proposal involves numerous and serious questions of public

policy, involving individual rights, the administration of the judicial system and the impact on current statutory schemes in a variety of areas. While the provision itself complies with Constitutional standards, the impact in other areas of the administration of the criminal justice system mitigates against the adoption of such a Constitutional amendment. Even though some economic benefit may be realized, one must remember:

> "[C]ourts of limited jurisdiction are the courts with which most citizens come in contact . . . To encourage respect for the law, these courts should be models of standard, courtesy and efficiency. Providing competent counsel will not guarantee all of those qualities, but it should be the first positive step in realizing these ideals."

"Can we Afford to Provide Trial Counsel for the Indigent in Misdemeanor Cases?", 13 William & Mary Law Review, 75 (1971-72).

This amendment, although designed to reduce the financial costs of the current criminal justice system, in fact raises serious questions of the impairment of the quality of justice in our courts. As we have said, although the right to counsel may not be considered fundamental and basic to a fair trial in some countries, it is in ours. Accordingly, we do not recommend the change in the guarantee of a right to counsel in our Constitution as proposed by CACR 13.

CACR 14 (1981)

PROVIDING THAT THE GENERAL COURT
SHALL ESTABLISH THE RATE OF PAYMENT FOR
STATE-APPOINTED COUNSEL FOR INDIGENT DEFENDANTS

No Recommendation

CACR 14 would amend Part First, Article 15 of the New Hampshire Constitution. The last sentence of the present Article, as amended in 1966, provides as follows:

> "... Every person held to answer in any crime or offense punishable by deprivation of liberty shall have the right to counsel at the expense of the state if need is shown; this right he is at liberty to waive, but only after the matter has been thoroughly explained by the court."

CACR 14 would add to the last sentence of present Article 15, the following additional language:

> "... at a rate established by the General Court..."

Under present law the Court determines legal fees for representation of indigent defendants. Smith v. State, 118 N.H. 764 (1978). Under CACR 14, the Legislature would set the rate of compensation.

The Legislature in 1965 enacted R.S.A. 604-A, to provide "adequate representation for indigent defendants in criminal cases." As originally enacted, R.S.A. 604-A also provided for a schedule of fees for the compensation of court-appointed counsel in criminal matters. These fees were not changed for 12 years and in Smith v. State, supra, the Supreme Court held "... that R.S.A. 604-A:5 ... [is] unconstitutional insofar as [it] shift[s] much of the state's obligation to the legal profession and intrude[s] impermissably upon an exclusive judicial function."

The then legislative scheme was deemed to be in violation of the then New Hampshire Constitutional provision. The present proposal would involve a constitutional provision that would specifically require the Legislature to set fees. Obviously, that proposal would not violate the New Hampshire Constitution because it would be part of that Constitution. Neither would that provision violate any portion of the Unites States Constitution. In fact, it appears that approximately 17 states* use fee schedules set by the Legislature.

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*These states, according to the latest statistics from the National Center for State Courts, Williamsburg, Virginia, include: Alabama, Arkansas, Connecticut, Florida, Hawaii, Illinois, Kansas, Mississippi, Nevada, New York, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and West Virginia.

While the provision for the establishment of fees by the Legislature in and of itself obviously would not violate either the Federal or State Constitution, such a fee schedule must represent "reasonable compensation" as held by the Supreme Court in State v. Smith, supra. In that case, the Court held that:

> "Attorneys are, of course, obligated to represent indigent persons when appointed by the Court. This obligation is made both upon ethical canons and court duty... In the absence of an agreed upon price, what constitutes reasonable compensation for performed services is, and has historically been, a matter for judicial determination."

The Court went on to hold that the provisions of R.S.A. 604-A:5 were unconstitutional because they shifted much of the State's obligation to the legal profession.

We presume that fee schedules set by the General Court would not be so unreasonably low as to constitute an expropriation of legal services in cases where counsel were involuntarily assigned by the court. As the Court said in Smith v. State, supra, at 771, "... without adequate compensation for those attorneys, it might be impossible to obtain valid criminal convictions in future prosecutions of indigent defendants. If public funding is not forthcoming, the ethical duties of the Bar to represent indigent defendants would have to be reevaluated by this Court."

We take this to mean that the Court would consider reassessing the ethical obligations of lawyers to take cases, and its historical practice of requiring counsel by Court order to handle criminal cases, if reasonable compensation for services was not provided by statute. Of course, without counsel or a validating waiver, criminal conviction and incarceration would not be possible.

CONCLUSION

It is our opinion that CACR 14 would not, on its face, violate the Federal or the State Constitution. However, the Judicial Council takes no position as to whether CACR 14 should or should not be adopted.

ADDITIONAL COMMENT ON CACR 13 AND CACR 14

Since we have been asked to study both of these provisions, it should be noted that there is no integration provision in the event that both of these provisions would be proposed by referendum and both adopted by the electorate. Some attention must be given to this aspect of these two proposals if they are to be proposed to the electorate.

HOUSE BILL 629 (1981)

AMENDING RSA 169-B TO PERMIT THE COURT
TO ORDER THE PAYMENT OF RESTITUTION BY PARENTS
OR LEGAL GUARDIANS OF CHILDREN FOUND TO HAVE
COMMITTED BURGLARY, ROBBERY, OR THEFT

Not Recommended

The Health and Welfare Committee having requested the assistance of the Judicial Council in analyzing the aforementioned bill, the following report is submitted:

House Bill 629 is an attempt to place responsibility for the control of minor children upon the parents or legal guardians of those children. By ordering parents or legal guardians whom the Court may find to have been negligent in exercising "reasonable supervision and control" to pay restitution, losses from burglary, robbery or theft are shifted from the victim to the parent of the minor found to have committed such an act. Presumably, parents who are aware that they may be ordered to pay restitution if their children commit such crimes will exercise greater supervision and control over their children, thus reducing the number of these crimes presently being committed.

In common law jurisdictions, of which New Hampshire is one, a parent or legal guardian is not liable for the acts of minor children except in those instances where the parent encouraged the act, participated in it, or failed to supervise adequately when the parent knew or should have known of the child's propensity to commit such acts. Statutes which assign some further degree of liability to parents have been enacted in other common law jurisdictions, notably Georgia, Connecticut, New Mexico, and North Carolina. Since these statutes are in derogation of the common law, they must be strictly construed.

The Health and Welfare Committee has questioned whether the State of New Hampshire would be held liable for the acts of the minor children committed to its care or supervision. It must be noted that the word "custodian" is conspicuous by its absence in the language of this bill, though it appears in the notice provisions of RSA 169-B. Construing the statute strictly, only a parent or legal guardian who has custody of the child and resides with the child, might be liable. The State of New Hampshire rarely, if ever, serves as legal guardian to children in placement or supervision. Only if all three tests of responsibility, to wit, parenthood or legal guardianship, custody, and residence, are met, could the Court then proceed to determine whether or not the parent or legal guardian "... failed or neglected ... to supervise." This means that foster parents, who do not generally have legal custody of their foster children, would not be liable. In addition, parents of children who are in the legal custody of the State of

New Hampshire (for example, children "paroled" from the Youth Development Center to their parents' residence) might not be liable under this strict reading of this statute.

An area of difficulty with the addition of this section to PSA 169-B is the question of whether or not this liability will be interpreted to be a criminal or civil liability. RSA 169-B is in the gray area of juvenile law, neither criminal nor civil in nature, but having elements of each.

Reference is made to State of New Hampshire v. Akers and Fox, 119 N.H. 161 (1979), which discusses the issue of parental responsibility for motor vehicle violations. In that case, RSA 269-C:24 IV provided that "[t]he parents or guardians ... will be responsible for any damage incurred or for any violations of this chapter by any person under the age of 18." The Supreme Court (Grimes, J.) found that this language "clearly indicates the legislature's intention to hold the parents criminally responsible ..." (162) goes on to state:

> [3] The legislature has not specified any voluntary acts or omissions for which parents are sought to be made criminally responsible and it is not a judicial function to supply them. It is fundamental to the rule of law and due process that acts or omissions which are to be the basis of criminal liability must be specified in advance and not ex post facto. N.H. Const. Pt. I, Art. 23; see State v. Harding, 114 N.H. 335, 320 A. 2d 646 (1974).

House Bill 629 is distinguished from the provision of RSA 269-C: 24 IV, above, in that the Court is required to find "that the parent or legal guardian has failed or neglected to exercise reasonable supervision and control... ." The legislation is silent, however, as to what standard the Court is to use in this circumstance. Parents are left to speculate on the degree of supervision which is reasonable, and the likelihood of a clash in values between a judge and a parent, for example, would seem to be very high. Further, there is no provision for the inclusion of notice concerning parental liability together with the notice mandated in RSA 169-B upon the filing of a petition alleging delinquency. Without notice of potential liability for restitution, parents may be inadequately prepared for the hearing on the petition.

If the restitution which may be ordered is civil in nature, it should be noted that the $10,000.00 limit is in excess of the jurisdiction of the District Court. The problems of adequate notice to parents would also apply if this were to be construed as a civil action.

Section IV of the legislation provides that "If the person violates the Court's order to submit restitution under this section, he shall be guilty of contempt." This section again gives rise to questions of criminal liability. There is no provision here for the fine, if levied, to be turned over to the victim, and the sanction is, arguably, criminal in nature. This may give rise to

a right to counsel for parents even if the parents had no right to counsel earlier in the proceeding.

In conclusion, the issue of parental responsibility for the wrongdoing of inadequately supervised children is an appropriate legislative concern. House Bill 629 lacks specific requirements for notice to parents and does not set forth clear standards for parental conduct. Legislation which raises more questions than it answers may not be used by the Courts, and may not provide the remedy the legislature intends.

HOUSE BILL 671

ELIMINATING APPEALS TO THE SUPERIOR COURT
OF CONVICTIONS OF VIOLATIONS IN DISTRICT AND MUNICIPAL COURTS

Recommended

The Judicial Council endorses HB 671 which provides for the elimination of appeals to the Superior Court from convictions of violations in the District and Municipal Courts. However, this recommendation is made with the exception contained in the proposed bill retaining the right to appeal a conviction for driving while intoxicated, first offense. The reason for this is that a second conviction for DWI is a misdemeanor and carries a mandatory period of incarceration under present law.

At present, appeals to the Superior Court from convictions of violations in the Municipal and District Courts require new trials on the facts and result in an unnecessary duplication of judicial effort and court processing expenditures. In 1981, there were 1,115 such appeals to the Superior Court.[1] Therefore, the State, through the counties, cities and towns, had to bear the cost of opening a file, docketing the case, sending notices, and processing these cases and handling the bookkeeping 2,230 times in the year. In addition, witness fees had to be paid twice on the same matters.

A further cost to the State, counties, cities and towns is in the hours of time which police officers, prosecutors, judges and court personnel must spend for these "second" trials of matters which generally are considerably less serious than other cases that they must deal with.

In addition, it is common knowledge that many appeals are taken merely for negotiating purposes with the prosecutor or to bide time to prevent convictions being recorded, which may result in a loss of license or increase in automobile insurance premiums. For example, in the Merrimack County Superior Court, in a six-month period from November 1, 1981 to April 20, 1982, 66 appeals from violation convictions were entered. In the same time period 46 were remanded back to the lower court when the defendant failed to appear for a hearing or decided not to proceed with the appeal. Unfortunately, even though there was no trial, these remands occurred after the District or Municipal Court had prepared the case for appeal and forwarded it to the Superior Court, which then docketed it, opened a file, scheduled it, mailed out notices and handled the entry fee and bail.

A final reason for this recommendation is that the defendant has had a full trial on the facts before a judge of a District or Municipal Court, the maximum penalty for a conviction of which is $100. Generally, these judges were selected and approved in the same manner

[1] Draft, Judicial Council's 19th Biennial Report, April 21, 1982.

as judges of the Superior Court. Those eleven judges who are not attorneys have had many years of experience as judges handling violations. The significance of the cases, compared with others pending in the court system and the cost in dollars and hours to the State, do not warrant the right to a second trial on the merits in violations.

Appeals on matters of law directly to the Supreme Court would still be retained under RSA 502-A:17a.

PROPOSED LEGISLATION REGARDING THE EFFECTIVE DATE OF LAWS

Recommended

RSA 21:42, I, provides that new laws become effective on the sixtieth calendar day following passage unless otherwise specifically provided by the General Court. The provision of a sixty-day delay between the passage of laws and their effective date was established in 1957. Since the early 1960's the number of measures enacted by the General Court has increased by slightly over 60%. In 1961, 360 measures were enacted, compared with 579 in 1981. The increasing volume of new laws has led to delays in publishing the laws - sometimes well beyond the date the laws have gone into effect.

As laws are adopted, the Secretary of State forwards them to the Office of Legislative Services which distributes them in the form of Advance Sheets to those who subscribe to the service. For legislation adopted early in the Legislative Session, there is little delay in publishing the new laws. However, the bulk of legislation is adopted near or at the end of the Session, and the sheer volume of new laws slows down the printing process. In 1981, the printing of the Advance Sheets was further delayed by several major recodifications, and the last set of Advance Sheets was not available to subscribers until October 30 - two months past the effective date of many laws. The pocket supplements to the RSA's were not available until March 1, 1982. The N.H. Laws, 1980 Recessed Session and 1981 Regular Session were not available until September 1, 1982.

The Judicial Council recommends that RSA 21:42, I, be amended to provide that new laws become effective on January 1 following the Session in which the laws were adopted unless otherwise specifically provided by the General Court. Since Regular Sessions of the General Court are, in effect, limited to the first six months of the odd-numbered years, an effective date of January 1 would allow six months for the publishing of new laws before they take effect. In the event that there are Recessed Sessions or Special Sessions held in the fall, it is recommended that the effective date be a minimum of 90 days following passage.

It is obvious that courts, lawyers and police departments cannot perform their duties without having copies of new laws available. In addition, this extension of time would enable the courts and other governmental bodies to prepare new forms or to establish new procedures as required by legislative mandates.

PROPOSED LEGISLATION TO SUSPEND LICENSE ON FAILURE TO ANSWER COMPLAINT OR PAY FINE

Recommended

The present financial problems of the State and municipalities and over-burdened courts are aggravated by the failure of many defendants to appear in court or to pay fines if assessed by the courts.

An article in the September 22, 1982, issue of the Nashua Telegraph quotes the Clerk of the Nashua District Court as estimating that court's unpaid misdemeanor and motor vehicle fines at $950,000, running back several years. The following date, that newspaper published the statement by the Clerk of the Manchester District Court that its unpaid fines were probably at a similar level to the Nashua Court. Undoubtedly the same situation exists in courts throughout the State and involves millions of dollars. It should be corrected.

While courts are authorized to and do issue arrest warrants for defendants who fail to answer complaints or pay fines imposed by courts, that procedure is administratively burdensome and inefficient. In the Telegraph article, the Nashua Police Chief stated his department had 500 arrest warrants outstanding, without the manpower to cope with them. The Motor Vehicle Director, to whom many of such defaults are reported by the courts, lacks statutory authority to suspend licenses or refuse to renew licenses for such defaults. Neither do the courts have statutory authority to suspend licenses in such cases.

While the great majority of unanswered complaints and unpaid fines involve the irresponsible or intentional evaders, a balance is required to protect those legitimate few who are unable to pay, or for one reason or another are the victims of a breakdown in communication. The old refrain that the right to operate on the State's highways is a "privilege" has been destroyed by the United States Supreme Court's holding in Bell v. Burson, 402 U.S. 535 (1971) that the Fourteenth Amendment prevents a state from suspending a license without due process of law. The Court's ruling that it was an important interest of the licensee is undoubtedly shared by the public at large which views its suspension as the deprivation of a fundamental right.

The later case of Dixon v. Love, 431 U.S. 105 (1976)[1] held that due process was satisfied, without a prior fact-finding hearing, where the Illinois Motor Vehicle Director administratively suspended a license upon three motor vehicle convictions. The Supreme Court held at page 115 that a state's legitimate interest in "administrative efficiency" and in keeping "off the roads those drivers who are unable

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[1] Note: Montrym v. Panora, ___ U.S. ___, 98 S. Ct. 386 1977 vacating attempt by U.S. District Court, District of Massachusetts in Montrym v. Panora 438 F. Supp 1157 (1977) to distinguish Dixon and enjoin the prehearing administrative suspension of a license for failure to take a breathalyzer test.

or unwilling to respect traffic rules and the safety of others" justified the prehearing administrative suspension under the criteria it earlier set forth in Mathews v. Eldridge, 424 U.S. 319, 335 (1976) quoted as follows:

> "[I]dentification of the specific dictates of due process generally requires consideration of three distinct factors: first, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail."

Although the federal constitution waters have been well charted by the foregoing United States Supreme Court cases, New Hampshire's constitutional shoals are not so well defined. Instructive, however, is the recent case of Vermont National Bank v. Taylor, ___ N.H. ___, decided May 17, 1982, invalidating the issuance of an arrest warrant to initiate civil contempt proceedings for failure to pay a court ordered judgment in the following language:

> "We hold that the use of an ex parte capias writ to initiate collection or civil contempt proceedings before the debtor has been given an opportunity to appear voluntarily for a hearing concerning his reasons for nonpayment and his present ability to pay violates the defendant's procedural due process rights under both the United States' and this State's Constitution U.S. CONST. amend. XIV; NH CONST. pt. I, art. 15." (underlining supplied)

The New Hampshire Supreme Court was careful in Vermont to point out that the defendant had not failed to appear in response to a summons or subpoena, which would be the case in the vast majority of motor vehicle and other defaults. The Court further pointed out that once "a judgment debtor has been found by the court to be able to pay the judgment but refuses to do so, he can be held in civil contempt and imprisoned until he makes the prescribed payment." Those defendants actually appearing in court on criminal matters and fined upon conviction usually are required to pay the fine immediately unless time payments are requested, in which case the court usually holds an immediate hearing to determine the defendants financial ability to pay and makes an order accordingly. It is unclear what period of time can elapse between the order to pay the fine and the initiation of enforcement action upon failure to pay before enforcement runs afoul of the New Hampshire Supreme Court's cautionary emphasis in Vermont on determining, after notice and hearing, the defendants "present ability to pay."

The Vermont case concerned the deprivation of liberty, by arrest, for failure to make agreed upon $100 monthly payments in a civil judgment. The same New Hampshire Constitutional requirements of notice and an opportunity to be heard would appear to extend to enforcement

of payment of criminal fine by deprivation of liberty.[2] The suspension of a license, however, may be thought to be of a sufficiently lesser degree as not to invoke the same constitutional measures, at lease in those cases where a defendant has already been given notice of the likelihood of that consequence, (the motor vehicle summons or complaint can contain such notice at the time it is given to the defendant) or the defendant has actually had a hearing on the ability to pay at the time of being fined. In other cases, notice of a hearing can be given.

In any event, the ability of the courts and Motor Vehicle Director to enforce the laws of the State by swift, efficient and certain sanctions leads the Judicial Council to recommend the enactment of statutory authority permitting the suspension of a license or operating privileges for failure to answer a summons or complaint or failure to pay a fine where a defendant has been given an opportunity to have a hearing on the ability to pay. LSR 1434, submitted in the 1983 Regular Session, contains such a provision. The proposal in this bill is not restricted solely to motor vehicle offenses on the premise that a person convicted of equally or more serious offenses than traffic violations is hardly entitled to be immune from an effective means of enforcement of court fines. Moreover, license suspension is less drastic than the presently permitted deprivation of liberty. In all cases provision is made, upon request, for a prompt hearing for the restoration of an inappropriately suspended license.

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[2]In a more recent case, again involving the deprivation of liberty, the Court has held due process requires an opportunity for hearing prior to commitment on parole violations, violations of probation when a case marked continued for sentence is brought forward when a suspended sentence is to be revoked, when some condition set by the Court has not been met and incarceration is proposed or the State opposes a request by the defendant that a sentence be continued. Stapleford v. Perrin, ___ N.H. ___, decided December 28, 1982.

JUDICIAL STATISTICS

The following statistics have been provided to the Judicial Council by the courts of the State. Except for the Probate Court statistics, the format of all the reports has changed. The Supreme Court statistics this year reflect the disposition of cases rather than their source, and they are reported by calendar year rather than fiscal year.

The Entries in the Superior Court Caseload Summaries are more accurate than in past years because they are derived directly from the docket numbering system now in use in all the Superior Courts. However, the dispositions of all cases and the breakdown of the criminal caseload (listed under the title "Other Information") should be regarded as estimates because these matters are hand-counted and may be subject to some error. The statistics are tallied in six-month segments so that fiscal year or calendar year totals can be computed.

The District Court statistics are also listed in six-month segments. The breakdown of motor vehicle violations has been continued. Statistics on domestic violence have been included as well as a breakdown of juvenile abuse-neglect cases. There are no Municipal Court Juvenile Cases reported because as of August 22, 1979, when the juvenile laws were revised (RSA 169-B, 169-C and 169-D), jurisdiction of their juvenile cases was transferred to the District Courts. Beginning in 1982 we requested additional information from the Clerks as to DWI cases. Although these are listed as DWI first offense and DWI second offense, the second offense category actually includes all subsequent offenses.

Although violations are entered under the heading "Criminal Case," violations are not crimes. In addition, the use of the term "felony" in District and Municipal Courts may be misleading. These courts do not have jurisdiction to try felonies; however, they do have authority to hold probable cause hearings to determine whether the evidence warrants trial of a felony in Superior Court.

The Judicial Council would like to express its appreciation to the many Clerks of Court who have cooperated in making these statistical reports possible.

SUPREME COURT CASELOAD STATISTICS

	Year End 1980		Year End 1981		Year End 1982	
Pending Cases, December 31	210		244		310	
Cases Filed	505		482		589	
TOTAL CASES		715		726		899
Cases Summarily Affirmed					127	
Cases Withdrawn	73				71	
Cases Declined	109		30		7	
Dismissed, Remanded, Etc.	73		138		36	
Subtotal		255		168		241
By Opinion	216		237		272	
Others By Consolidated Opinions			11		29	
TOTAL OPINIONS		216		248		301
TOTAL DISPOSED		471		416		542
Pending:						
Argued, Awaiting Opinion	68		113		93	
Docketed, But Not Argued	176		197		264	
TOTAL PENDING YEAR END		244		310		357

SUPERIOR COURT CASELOAD SUMMARIES

JANUARY 1, 1980 TO DECEMBER 31, 1980

	Belknap	Carroll	Cheshire	Coos	Grafton*	Hillsborough	Merrimack	Rockingham	Strafford**	Sullivan	Total
Criminal Entries	295	179	537	177	428	2,059	674	1,516	1,157	296	7,318
Civil Entries	402	331	247	146	310	2,427	629	1,364	510	167	6,533
Equity Entries	193	120	135	125	150	792	376	502	190	98	2,681
Domestic Relations Entries	335	252	545	259	570	2,335	886	1,747	799	346	8,074
TOTAL	1,225	882	1,464	707	1,458	7,613	2,565	5,129	2,656	907	24,606

* The new docketing system was not implemented in Grafton County until September 1, 1980. Equity and Domestic Relations were reported as a combined figure prior to that date. The breakdown in these two categories is an estimate.

**Equity and Domestic Relations were reported as a combined figure of 989; the above breakdown is an estimate.

SUPERIOR COURT CASELOAD SUMMARIES
JANUARY 1, 1981 TO JUNE 30, 1981

	Belknap	Carroll	Cheshire	Coos	Grafton	Hillsborough	Merrimack	Rockingham	Strafford	Sullivan	Total
Criminal Entries	98	132	320	144	217	1,078	377	688	566	119	3,739
Civil Entries	240	150	114	77	166	1,243	366	778	178	64	3,376
Equity Entries	78	71	119*	71	60	343	169	241	81	35	1,268
Domestic Relations Entries	173	100	240*	127	284	1,157	469	929	386	210	4,075
TOTAL	589	453	793	419	727	3,821	1,381	2,636	1,211	428	12,458
Criminal Dispositions	197	86	422	135	206	1,130	353	668	807	56	4,060
Civil Dispositions	466	164	141	128	151	870	366**	660	326	91	3,363
Equity Dispositions	100	60	131	81	72	366	208**	315	120	54	1,507
Domestic Relations Dispositions	221	170	399	123	288	1,544	463	886	418	363	4,875
TOTAL	984	480	1,093	467	717	3,910	1,390	2,529	1,671	564	13,805

OTHER INFORMATION
JANUARY 1, 1981 TO JUNE 30, 1981

Misdemeanor Appeals Entered	38	22	91	66	54	364	92	185	246	7	1,165
Violations Appeals Entered	17	20	59	6	24	128	53	107	114	9	537
Felonies Entered	54	96	159	52	138	551	200	344	192	60	1,846
TOTAL	109	138	309	124	216	1,043	345	636	552	76	3,548
Misdemeanor Appeals Disposed of	60	17	102	67	72	298	113	123	387	4	1,243
Violations Appeals Disposed of	30	12	76	7	23	144	63	114	188	3	660
Felonies Disposed of	107	57	211	61	111	610	165	432	232	49	2,035
TOTAL	197	86	389	135	206	1,052	341	669	807	56	3,938

* Estimates
**Includes cases brought forward

SUPERIOR COURT CASELOAD SUMMARIES
JULY 1, 1981 TO DECEMBER 31, 1981

	Belknap	Carroll	Cheshire	Coos	Grafton	Hillsborough	Merrimack	Rockingham	Strafford	Sullivan	Total
Criminal Entries	149	120	200	92	206	1,057	330	781	445	101	3,481
Civil Entries	233	131	106	112	186	1,027	306	535	245	59	2,940
Equity Entries	83	74	122*	66	79	317	158	239	84	40	1,262
Domestic Relations Entries	186	101	241*	124	260	1,055	456	870	406	185	3,884
TOTAL	651	426	669	394	731	3,456	1,250	2,425	1,180	385	11,567
Criminal Dispositions	151	117	167	71	207	924	358	873	296	142	3,306
Civil Dispositions	223	123	100	84	151	640	329	630	204	73	2,557
Equity Dispositions	86	51	109	44	72	188	153	172	68	35	978
Domestic Relations Dispositions	140	144	408	110	289	1,331	443	788	353	281	4,287
TOTAL	600	435	784	309	719	3,083	1,283	2,463	921	531	11,128

OTHER INFORMATION
JULY 1, 1981 TO DECEMBER 31, 1981

Misdemeanor Appeals Entered	56	32	49	39	43	261	99	223	181	6	989
Violations Appeals Entered	18	22	83	8	22	158	58	138	96	9	612
Felonies Entered	78	73	64	43	141	546	171	424	182	84	1,806
TOTAL	152	127	196	90	206	965	328	785	459	99	3,407
Misdemeanor Appeals Disposed of	45	26	37	28	73	247	85	236	115	10	902
Violations Appeals Disposed of	22	20	38	5	23	95	66	268	60	20	617
Felonies Disposed of	83	71	88	38	111	489	204	368	121	119	1,692
TOTAL	150	117	163	71	207	831	355	872	296	149	3,211

*Estimates

SUPERIOR COURT CASELOAD SUMMARIES
JANUARY 1, 1982 TO JUNE 30, 1982

	Belknap	Carroll	Cheshire	Coos	Grafton	Hillsborough	Merrimack	Rockingham	Strafford	Sullivan	Total
Criminal Entries	164	135	240	86	202	1,188	401	734	441	114	3,705
Civil Entries	209	128	147	94	150	1,330	294	731	284	81	3,448
Equity Entries	74	70	116*	55	100	380	171	306	90	49	1,411
Domestic Relations Entries	173	107	236*	103	275	1,059	344	813	331	162	3,603
TOTAL	620	440	739	338	727	3,957	1,210	2,584	1,146	406	12,167
Criminal Dispositions	252	106	315	56	270	1,141	407	785	402	88	3,822
Civil Dispositions	273	118	176	92	112	1,070	298	598	329	69	3,135
Equity Dispositions	72	69	120	41	87	204	183	229	64	53	1,122
Domestic Relations Dispositions	205	111	464	77	235	1,531	356	686	299	289	4,253
TOTAL	802	404	1,075	266	704	3,946	1,244	2,298	1,094	499	12,332

OTHER INFORMATION
JANUARY 1, 1982 TO JUNE 30, 1982

Misdemeanor Appeals Entered	49	23	58	25	78	342	113	273	309	9	1,279
Violations Appeals Entered	11	9	56	12	26	153	68	109	96	6	546
Felonies Entered	94	81	99	38	75	646	180	277	226	89	1,805
TOTAL	154	113	213	75	179	1,141	361	659	631	104	3,630
Misdemeanor Appeals Disposed of	95	41	75	24	66	325	148	251	207	9	1,241
Violations Appeals Disposed of	25	17	102	18	33	181	93	141	54	8	672
Felonies Disposed of	119	48	98	14	132	623	156	436	141	71	1,838
TOTAL	239	106	275	56	231	1,129	397	828	402	88	3,751

* Estimates

SUPERIOR COURT CASELOAD SUMMARIES
JULY 1, 1982 TO DECEMBER 31, 1982

	Belknap	Carroll	Cheshire	Coos	Grafton	Hillsborough	Merrimack	Rockingham	Strafford	Sullivan	Total
Criminal Entries	157	164	335	131	216	1,065	377	890	532	133	4,000
Civil Entries	236	134	130	80	154	1,069	316	572	238	102	3,031
Equity Entries	87	65	92*	49	57	378	146	210	83	27	1,194
Domestic Relations Entries	174	95	186*	77	217	1,024	374	821	356	173	3,497
TOTAL	654	458	743	337	644	3,536	1,213	2,493	1,209	435	11,722
Criminal Dispositions	129	156	257	105	229	735	398	703	296	120	3,128
Civil Dispositions	248	111	159	46	139	617	289	547	365	79	2,600
Equity Dispositions	121	35	51	42	69	178	148	241	57	31	973
Domestic Relations Dispositions	172	149	405	74	219	1,616	391	753	348	257	4,384
TOTAL	670	451	872	267	656	3,136	1,226	2,244	1,066	487	11,085

OTHER INFORMATION
JULY 1, 1982 TO DECEMBER 31, 1982

Misdemeanor Appeals Entered	53	69	78	56	55	272	179	327	230	21	1,340
Violations Appeals Entered	16	29	55	19	40	131	83	134	107	4	618
Felonies Entered	63	70	159	56	107	640	112	334	176	75	1,792
TOTAL	132	168	292	131	202	1,043	374	795	513	100	3,750
Misdemeanor Appeals Disposed of	24	44	75	35	53	236	153	193	133	7	953
Violations Appeals Disposed of	18	24	41	9	39	134	77	104	50	9	505
Felonies Disposed of	99	88	141	61	122	331	148	406	113	101	1,610
TOTAL	141	156	257	105	214	701	378	703	296	117	3,068

* Estimates

PROBATE COURT STATISTICS JULY 1, 1980 TO JUNE 30, 1981

	Belknap	Carroll	Cheshire	Coos	Grafton	Hillsborough	Merrimack	Rockingham	Strafford	Sullivan	Total
New Files Opened:											
Adoptions	36	14	53	18	45	174	84	138	58	31	651
Change of Names	40	13	30	21	42	202	98	120	54	31	651
Involuntary Commitments	0	4	1	0	1	10	240	0	1	1	258
Conservators Appointed	4	5	3	5	3	14	42	3	2	6	87
Guardians Appointed:											
a. Incompetents	104	9	9	9	18	44	60	27	12	7	299
b. Minors	17	6	33	10	14	60	20	38	15	9	222
Wills Allowed	155	128	221	73	233	795	443	419	247	156	2,870
Administrations Allowed	149	40	59	49	275	204	111	151	74	37	1,149
Voluntary Administrations	46	26	43	71	36	88	150	99	80	29	668
Marriage Waivers Granted	39	42	62	29	47	365	71	314	68	38	1,075
Inheritance Tax Receipt Where No Administration of Estate	2	0	0	0	4	0	0	0	4	0	10
Death Certificate Where No Administration of Estate	0	0	0	11	0	0	0	29	12	0	52
Petitions to File and Record Authenticated Copy of Will	13	39	21	5	15	27	15	25	11	13	184
Termination of Parental Rights	6	2	11	6	5	(46)*	8	22	13	10	83
Relinquishment of Parental Rights	11	1	16	15	16	34	9	17	48	3	170
Other	2	6	0	3	0	0	0	10	0	0	21
TOTAL	624	335	562	325	754	2,017	1,351	1,412	699	371	8,450
Trustees Appointed	9	9	12	5	13	50	29	18	15	10	170
Accounts Allowed:											
a. Administrators & Executors	199	211	231	147	304	733	740	575	344	140	3,624
b. Guardians & Conservators	86	59	109	83	104	267	338	181	131	46	1,404
c. Trustees	99	105	138	45	118	451	420	229	138	79	1,822
TOTAL ACCOUNTS	384	375	478	275	526	1,451	1,498	985	613	265	6,850
Licenses Issued:											
a. Goods and Chattels	1	0	1	0	4	4	4	6	9	3	32
b. Stocks and Bonds	1	5	3	0	5	12	4	4	3	0	37
c. Real Estate	9	21	4	12	65	36	11	51	31	5	245
d. Miscellaneous	3	2	0	0	71	0	0	1	3	10	90
TOTAL LICENSES	14	28	8	12	145	52	19	62	46	18	404

*Included With Adoptions

PROBATE COURT STATISTICS JULY 1, 1981 TO JUNE 30, 1982

	Belknap	Carroll	Cheshire	Coos	Grafton	Hillsborough	Merrimack	Rockingham	Strafford	Sullivan	Total
New Files Opened:											
Adoptions	23	19	45	14	49	200	52	156	67	19	644
Change of Names	57	21	36	20	27	193	91	134	64	29	672
Involuntary Commitments	0	0	1	1	3	11	257	1	1	1	276
Conservators Appointed	13	5	12	9	3	19	15	11	2	4	93
Guardians Appointed:											
a. Incompetents	115	6	19	5	13	75	40	36	11	15	335
b. Minors	14	10	18	3	22	63	22	33	18	14	217
Wills Allowed	181	138	258	96	214	861	286	409	256	192	2,891
Administrations Allowed	170	58	50	53	248	170	121	129	77	52	1,128
Voluntary Administrations	38	23	42	43	48	100	86	136	82	35	633
Marriage Waivers Granted	30	54	70	28	36	299	52	231	55	32	887
Inheritance Tax Receipt Where No Administration of Estate	4	3	1	0	4	0	0	4	0	0	16
Death Certificate Where No Administration of Estate	1	0	0	14	1	0	0	12	9	0	37
Petitions to File and Record Authenticated Copy of Will	21	26	19	9	15	16	17	24	8	16	171
Termination of Parental Rights	2	4	14	5	9	(41)*	10	25	18	4	91
Relinquishment of Parental Rights	3	4	25	3	4	29	17	16	51	9	161
Other	0	1	0	5	0	2	63	12	0	0	83
TOTAL	672	372	610	308	696	2,038	1,129	1,369	719	422	8,335
Trustees Appointed	6	17	21	5	14	38	33	17	23	2	176
Accounts Allowed:											
a. Administrators & Executors	195	217	223	152	293	748	720	584	339	119	3,590
b. Guardians & Conservators	94	60	98	79	113	254	341	226	139	102	1,506
c. Trustees	108	105	134	35	158	391	423	228	152	68	1,802
TOTAL ACCOUNTS	397	382	455	266	564	1,393	1,484	1,038	630	289	6,898
Licenses Issued:											
a. Goods and Chattels	0	1	0	0	3	3	2	6	2	3	20
b. Stocks and Bonds	0	1	0	0	4	14	6	5	3	2	35
c. Real Estate	5	23	12	8	69	28	30	36	50	10	271
d. Miscellaneous	5	2	0	0	80	0	0	1	0	4	92
TOTAL LICENSES	10	27	12	8	156	45	38	48	55	19	418

*Included With Adoptions

DISTRICT COURT CRIMINAL CASE ENTRIES

JULY 1 TO DECEMBER 31, 1980

Court	Motor Vehicle Violations	Other Violations	Misdemeanors	Felonies	Total
Auburn	1,551*	195	59	28	1,833
Berlin	401	27	162	12	602
Claremont	1,602	125	223	34	1,984
Colebrook	644	90	101	26	861
Concord	8,367	550	1,381	199	10,497
Conway	1,992	11	331	29	2,363
Derry	2,895*	64	384	48	3,391
Dover	2,950*	165	583	62	3,760
Durham	1,109	47	134	13	1,303
Exeter	1,330	185	259	16	1,790
Franklin	1,776	129	227	21	2,153
Goffstown	1,584	110	263	52	2,009
Gorham	864	2	47	4	917
Hampton	5,445*	1,169	849	64	7,527
Hanover	368	46	69	45	528
Haverhill	188*	30	122	8	348
Henniker	943	44	82	2	1,071
Hillsborough	984	91	196	7	1,278
Hooksett	3,866	60	364	31	4,321
Jaffrey	2,027	52	161	9	2,249
Keene	4,156*	907	877	66	6,006
Laconia	4,998	380	604	65	6,047
Lancaster	476	18	76	6	576
Lebanon	2,385	54	218	22	2,679
Lincoln	183	28	27	4	242
Littleton	518	83	154	15	770
Manchester	3,432	8,736	1,445	319	13,932
Merrimack	3,111	29	439	41	3,620
Milford	2,841	54	263	46	3,204
Nashua	7,475*	217	1,443	260	9,395
New London	1,989*	42	121	16	2,168
Newport	2,070*	69	192	22	2,353
Ossipee	1,622	75	224	39	1,960
Peterborough	1,273	29	213	35	1,550
Plaistow	1,152	40	141	29	1,362
Plymouth	1,087	188	256	18	1,549
Portsmouth	2,371	88	204	53	2,716
Rochester	2,107	108	565	46	2,826
Salem	3,336	301	543	90	4,270
Somersworth	1,494	117	221	29	1,861
Wolfeboro	824	100	149	7	1,080
TOTAL	89,786	14,855	14,372	1,938	120,951

*Estimate

MUNICIPAL COURT CRIMINAL CASE ENTRIES

JULY 1 TO DECEMBER 31, 1980

Court	Motor Vehicle Violations	Other Violations	Misdemeanors	Felonies	Total
Bethlehem	113	43	9	0	165
Bristol	394	58	122	3	577
Canaan	141	3	43	3	190
Epping	798	17	42	4	861
Farmington	136	24	100	7	267
Greenville	104	54	24	0	182
Hinsdale	159	22	24	0	205
Loudon	367	9	29	1	406
Newmarket	358	14	80	0	452
Northumberland	128	11	41	2	182
Pelham	331	18	31	8	388
Pittsfield	70	1	84	6	161
Rye	384	143	45	2	574
Whitefield	240	24	19	6	289
Wilton	209	2	4	0	215
TOTAL	3,932	443	697	42	5,114

DISTRICT COURT CRIMINAL CASE ENTRIES

JANUARY 1 TO JUNE 30, 1981

Court	Motor Vehicle Violations	Other Violations	Misdemeanors	Felonies	Total
Auburn	1,516*	168	77	17	1,778
Berlin	562	49	161	22	794
Claremont	890	60	219	54	1,223
Colebrook	410	63	103	5	581
Concord	7,595	1,093	1,760	184	10,632
Conway	1,716	35	294	19	2,064
Derry	3,380*	157	353	74	3,964
Dover	2,927*	236	661	78	3,902
Durham	1,060	27	155	4	1,246
Exeter	1,494	73	170	34	1,771
Franklin	1,360	135	139	27	1,661
Goffstown	1,757	168	285	48	2,258
Gorham	574	2	52	0	628
Hampton	4,785*	983	526	40	6,334
Hanover	314	11	65	36	426
Haverhill	178	30	119	22	349
Henniker	901	24	101	4	1,030
Hillsborough	827	38	143	19	1,027
Hooksett	3,532	34	287	15	3,868
Jaffrey	1,589	32	197	30	1,848
Keene	3,778*	1,122	816	134	5,850
Laconia	5,239	416	611	33	6,299
Lancaster	484	7	68	30	589
Lebanon	1,532	20	230	29	1,811
Lincoln	339	28	25	0	392
Littleton	402	55	173	70	700
Manchester	3,336	10,131	1,126	286	14,879
Merrimack	2,119	65	302	50	2,536
Milford	2,300	36	298	29	2,663
Nashua	9,522*	145	1,075	190	10,932
New London	1,575	8	62	20	1,665
Newport	1,502	49	140	20	1,711
Ossipee	1,290*	57	219	19	1,585
Peterborough	924	22	90	23	1,059
Plaistow	1,026	46	190	22	1,284
Plymouth	1,289	63	180	12	1,544
Portsmouth	2,418	56	202	24	2,700
Rochester	2,506	37	468	51	3,062
Salem	4,178	241	558	84	5,061
Somersworth	1,270	138	181	33	1,622
Wolfeboro	450	19	164	15	648
TOTAL	84,846	16,179	13,045	1,906	115,976

*Estimate

MUNICIPAL COURT CRIMINAL CASE ENTRIES

JANUARY 1 TO JUNE 30, 1981

Court	Motor Vehicle Violations	Violations	Misdemeanors	Felonies	Total
Bethlehem	83	17	23	1	124
Bristol	131	13	62	4	210
Canaan	395	0	32	0	427
Epping	529	30	124	0	683
Farmington	275	16	136	8	435
Greenville	127	40	30	5	202
Hinsdale	237	20	37	0	294
Loudon	254	10	28	0	292
Newmarket	358	71	84	1	514
Northumberland	95	3	21	1	120
Pelham	313	43	25	22	403
Pittsfield	54	13	58	3	128
Rye	359	72	31	0	462
Whitefield	124	2	20	4	150
Wilton	306	2	0	0	308
TOTAL	3,640	352	711	49	4,752

DISTRICT COURT CRIMINAL CASE ENTRIES

JULY 1 TO DECEMBER 31, 1981

Court	Motor Vehicle Violations	Other Violations	Misdemeanors	Felonies	Total
Auburn	1,590*	197	75	9	1,871
Berlin	601	59	144	16	820
Claremont	1,014	128	400	47	1,589
Colebrook	769	64	90	9	932
Concord	6,372	2,369	1,913	176	10,830
Conway	1,919	62	360	48	2,389
Derry	2,948*	173	347	64	3,532
Dover	2,994	575	516	87	4,172
Durham	1,261	66	111	7	1,445
Exeter	1,725	199	219	38	2,181
Franklin	966	61	465	39	1,531
Goffstown	1,348	283	301	57	1,989
Gorham	461	1	62	2	526
Hampton	6,951*	1,605	808	122	9,486
Hanover	272	21	72	14	379
Haverhill	264	23	59	5	351
Henniker	1,564	31	132	3	1,730
Hillsborough	920	31	107	14	1,072
Hooksett	4,599	57	329	25	5,010
Jaffrey	1,737	38	206	16	1,997
Keene	3,946*	1,254	696	63	5,959
Laconia	5,833*	397	736	52	7,018
Lancaster	464	0	38	10	512
Lebanon	1,665	22	157	24	1,868
Lincoln	405	64	15	1	485
Littleton	617*	54*	152*	7*	830
Manchester	3,657	4,179	1,194	351	9,381
Merrimack	2,115	47	375	39	2,576
Milford	2,670*	37	324	50	3,081
Nashua	8,128*	183	1,384	225	9,920
New London	1,605	18	68	9	1,700
Newport	1,858	33	148	16	2,055
Ossipee	1,112*	58	196	20	1,386
Peterborough	934	29	153	6	1,122
Pittsfield[1]	206	26	93	5	330
Plaistow	1,467	195	309	26	1,997
Plymouth	1,354	188	141	16	1,699
Portsmouth	2,419	51	303	38	2,811
Rochester	2,046	32	485	31	2,594
Salem	4,099	247	594	114	5,054
Somersworth	1,102	59	227	19	1,407
Wolfeboro	823	88	132	9	1,052
TOTAL	88,800	13,304	14,636	1,929	118,669

*Estimate

1. Pittsfield became a District Court July 1, 1981. Pittsfield was previously part of the Concord District Court.

MUNICIPAL COURT CRIMINAL CASE ENTRIES

JULY 1 TO DECEMBER 31, 1981

Court	Motor Vehicle Violations	Other Violations	Misdemeanors	Felonies	Total
Bethlehem	156	33	14	0	203
Bristol	148	32	66	0	246
Canaan	376	6	19	1	402
Epping	557	30	25	4	616
Farmington	118	55	134	31	338
Greenville	119	42	53	2	216
Hinsdale	171	29	38	0	238
Loudon	452	0	27	0	479
Newmarket	504	40	42	5	591
Northumberland	155*	4*	14*	0	173
Pelham	349	41	33	17	440
Rye	260	221	63	1	545
Whitefield	205	7	28	5	245
Wilton	194	8	29	8	239
TOTAL	3,764	548	585	74	4,971

*Estimate

DISTRICT COURT CRIMINAL CASE ENTRIES

JANUARY 1 TO JUNE 30,1982

Court	Motor Vehicle Violations	DWI 1st	Other Violations	Misdemeanors	DWI 2nd	Felonies	Total
Auburn	1,324	66	95	180	14	28	1,707
Berlin	329	30	19	124	3	18	523
Claremont	795	36	73	289	8	55	1,256
Colebrook	184	14	32	50	3	8	291
Concord	5,422	153*	886	933	37	159	7,590
Conway	1,345	153	87	305	10	25	1,925
Derry	2,633	127	155	292	22	65	3,294
Dover	2,349	108	479	320	21	30	3,307
Durham	1,298	19	62	100	4	7	1,490
Exeter	1,925	87	121	147	11	29	2,320
Franklin	849	42	49	305	9	34	1,288
Goffstown	1,181	108	170	298	19	24	1,800
Gorham	450*	22*	19*	49*	1	0	541
Hampton	4,687	426	702	640	34	36	6,525
Hanover	371	22	14	88	5	23	523
Haverhill	180	10	29	127	3	8	357
Henniker	1,385	21	37	105	4	2	1,554
Hillsborough	600	41	37	124	9	7	818
Hooksett	4,076	82	61	242	6	36	4,503
Jaffrey	1,398	110	26	185	12	19	1,750
Keene	2,989	164	1,090	773	47	94	5,157
Laconia	5,365	250	233	586	49	90	7,020[1]
Lancaster	351	11	0	36	2	3	403
Lebanon	1,842	46	25	267	9	46	2,235
Lincoln	387	16	13	28	3	0	447
Littleton	440	34	44	143	8	17	686
Manchester	3,683	129	4,030	1,100	34	262	9,238
Merrimack	2,741	105	110	287	20	38	3,301
Milford	2,499	118	77	295	34	33	3,056
Nashua	9,196*	731*	121*	1,699*	133*	221	12,101
New London	1,454	22	16	55	2	2	1,551
Newport	1,333	29	69	121	10	21	1,583
Ossipee	1,165	51	33	152	5	17	1,423
Peterborough	632	43	36	166	3	10	890
Pittsfield	281	10	0	61	5	16	373
Plaistow	1,184	56	108	163	13	47	1,571
Plymouth	870	43	105	208	1	14	1,241
Portsmouth	2,106	130	41	266	26	36	2,605
Rochester	2,400	126	81	324	30	34	2,995
Salem	3,225	83	381	479	16	76	4,260
Somersworth	793	25	61	110	17	3	1,009
Wolfeboro	360	55	37	102	4	2	560
TOTAL	78,077	3,954	9,864	12,324	706	1,695	107,067

*Estimate

1. This figure includes 447 cases which were not categorized in April due to a change in personnel and procedures.

MUNICIPAL COURT CRIMINAL CASE ENTRIES

JANUARY 1 TO JUNE 30, 1982

Court	Motor Vehicle Violations	DWI 1st	Other Violations	Misdemeanors	DWI 2nd	Felonies	Total
Bethlehem	82	5	24	6	0	0	117
Bristol	172	14	42	78	2	1	309
Canaan[1]	38	1	8	0	0	0	47
Epping	458	25	34	37	5	0	559
Farmington	95	14	54	138	4	19	324
Greenville	0	0	0	0	0	0	0
Hinsdale	234	17	30	34	1	0	316
Loudon	210	8	3	24	2	2	249
Newmarket	394	16	52	74	5	10	551
Northumberland	74	2	7	9	0	1	93
Pelham	369	9	23	91	3	28	523
Rye	249	11	96	15	0	5	376
Whitefield	184	9	7	27	2	0	229
Wilton[2]	97	8	1	19	0	1	126
TOTAL	2,656	139	381	552	24	67	3,819

1. Canaan Municipal Court has been absorbed by the Lebanon District Court as of February 5, 1982.

2. Wilton Municipal Court has been absorbed by the Milford District Court as of March 16, 1982.

DISTRICT COURT CIVIL CASE ENTRIES

JULY 1 TO DECEMBER 31, 1980

Court	Writs	Landlord & Tenant	Small Claims	Domestic Violence	Total
Auburn	60	12	153	0	225
Berlin	11	2	107	0	120
Claremont	66	31	247	28	372
Colebrook	9	0	46	0	55
Concord	284	46	785	39	1,154
Conway	45	5	342	10	402
Derry	219	0	403	0	622
Dover	138	72	303	27	540
Durham	26	4	51	0	81
Exeter	108	26	592	41*	767
Franklin	61	5	357	17	440
Goffstown	28	3	118	17	166
Gorham	1	0	37	0	38
Hampton	93	42	191	0	326
Hanover	43	3	365	0	411
Haverhill	10	1	126	1	138
Henniker	16	0	83	6	105
Hillsborough	14	2	142	11	169
Hooksett	46	25	88	0	159
Jaffrey	38	11	72	18	139
Keene	165	33	598	31	827
Laconia	170	58	695	0	923
Lancaster	37	3	138	0	178
Lebanon	45	4	148	0	197
Lincoln	5	0	22	2	29
Littleton	16	2	169	21	208
Manchester	543	229	1,651	0	2,423
Merrimack	84	6	163	0	253
Milford	117	11	237	0	365
Nashua	649	245	2,243	90	3,227
New London	11	1	228	2	242
Newport	14*	6*	127*	7*	154
Ossipee	12	0	124	0	136
Peterborough	34	7	148	3	192
Plaistow	62	17	222	36	337
Plymouth	64	9	167	0	240
Portsmouth	190	113	175	17	495
Rochester	89	30	291	0	410
Salem	134	95	201	29	459
Somersworth	30	16	155	2	203
Wolfeboro	28	0	52	0	80
TOTAL	3,815	1,175	12,562	455	18,007

*Estimate

MUNICIPAL COURT CIVIL CASE ENTRIES

JULY 1 TO DECEMBER 31, 1980

Court	Writs	Landlord & Tenant	Small Claims	Total
Bethlehem	0	0	11	11
Bristol	0	0	37	37
Canaan	0	0	20	20
Epping	0	0	18	18
Farmington	0	4	36	40
Greenville	0	0	13	13
Hinsdale	1	4	25	30
Loudon	0	0	4	4
Newmarket	4	3	17	24
Northumberland	0	0	45	45
Pelham	0	0	32	32
Pittsfield	0	3	36	39
Rye	0	0	7	7
Whitefield	0	0	0	0
Wilton	0	0	10	10
TOTAL	5	14	311	330

DISTRICT COURT CIVIL CASE ENTRIES

JANUARY 1 TO JUNE 30, 1981

Court	Writs	Landlord & Tenant	Small Claims	Domestic Violence	Total
Auburn	35	4	165	15	219
Berlin	42	15	174	0	231
Claremont	51	14	248	22	335
Colebrook	20	2	136	0	158
Concord	288	28	1,209	67	1,592
Conway	66	10	372	10	458
Derry	225	0	451	0	676
Dover	159	34	352	23	568
Durham	34	0	79	0	113
Exeter	99	31	808	20	958
Franklin	38	7	320	22	387
Goffstown	47	1	162	3	213
Gorham	14	0	89	0	103
Hampton	116	38	199	0	353
Hanover	54	5	386	0	445
Haverhill	8*	0	161*	6*	175
Henniker	31	0	126	3	160
Hillsborough	21	3	167	11	202
Hooksett	57	28	114	0	199
Jaffrey	25	7	115	10	157
Keene	237	46	848	39	1,170
Laconia	189	25	800	0	1,014
Lancaster	26	0	144	0	170
Lebanon	116	2	154	0	272
Lincoln	1	0	15	2	18
Littleton	27	0	337	8	372
Manchester	605	261	1,904	0	2,770
Merrimack	114	12	236	0	362
Milford	134	13	156	0	303
Nashua	720	226	2,085	120	3,151
New London	12	4	192	1	209
Newport	27	11	228	11	277
Ossipee	27	0	135	7	169
Peterborough	27	8	149	8	192
Plaistow	78	15	163	13	269
Plymouth	47	5	251	0	303
Portsmouth	136	120	365	33	654
Rochester	123	47	396	26	592
Salem	138	67	224	10	439
Somersworth	41	18	140	5	204
Wolfeboro	28	2	91	0	121
TOTAL	4,283	1,109	14,846	495	20,733

*Estimate

MUNICIPAL COURT CIVIL CASE ENTRIES

JANUARY 1 TO JUNE 30, 1981

Court	Writs	Landlord & Tenant	Small Claims	Total
Bethlehem	0	1	7	8
Bristol	0	0	75	75
Canaan	0	0	10	10
Epping	0	0	21	21
Farmington	0	0	14	14
Greenville	0	0	16	16
Hinsdale	2	7	17	26
Loudon	0	2	3	5
Newmarket	0	1	8	9
Northumberland	0	0	32	32
Pelham	0	0	24	24
Pittsfield	0	4	269	273
Rye	0	0	23	23
Whitefield	0	0	8	8
Wilton	0	0	0	0
TOTAL	2	15	527	544

DISTRICT COURT CIVIL CASE ENTRIES

JULY 1 TO DECEMBER 31, 1981

Court	Writs	Landlord & Tenant	Small Claims	Domestic Violence	Total
Auburn	47	14	163	6	230
Berlin	51	4	94	0	149
Claremont	99	19	307	38	463
Colebrook	28	2	63	0	93
Concord	256	59	1,233	47	1,595
Conway	27	9	330	14	380
Derry	316	0	446	0	762
Dover	113	47	364	31	555
Durham	31	0	73	0	104
Exeter	84	21	396	18	519
Franklin	49	4	386	17	456
Goffstown	50	1	134	24	209
Gorham	12	0	72	0	84
Hampton	100	49	236	0	385
Hanover	31	10	431	0	472
Haverhill	6	5	248	1	260
Henniker	9	1	74	3	87
Hillsborough	21	2	359	11	393
Hooksett	38	12	97	0	147
Jaffrey	31	6	118	15	170
Keene	261	45	1,092	46	1,444
Laconia	189	49	792	0	1,030
Lancaster	20	0	69	0	89
Lebanon	100	7	154	0	261
Lincoln	6	0	6	3	15
Littleton	30	0	242	11	283
Manchester	650	261	2,067	0	2,978
Merrimack	90	6	242	4	342
Milford	129	11	226	0	366
Nashua	658	253	1,879	108	2,898
New London	8	0	207	2	217
Newport	90	16	190	13	309
Ossipee	17	0	125	6	148
Peterborough	39	11	241	8	299
Pittsfield	3	1	293	0	297
Plaistow	59	18	279	32	388
Plymouth	43	3	265	0	311
Portsmouth	125	125	315	34	599
Rochester	104	29	333	53	519
Salem	115	39	160	17	331
Somersworth	21	22	108	3	154
Wolfeboro	19	1	81	0	101
TOTAL	4,175	1,162	14,990	565	20,892

MUNICIPAL COURT CIVIL CASE ENTRIES

JULY 1 TO DECEMBER 31, 1981

Court	Writs	Landlord & Tenant	Small Claims	Total
Bethlehem	0	0	19	19
Bristol	0	0	51	51
Canaan	0	0	12	12
Epping	0	0	6	6
Farmington	0	4	20	24
Greenville	0	0	1	1
Hinsdale	6	7	41	54
Loudon	0	0	6	6
Newmarket	1	3	50	54
Northumberland	0	0	0	0
Pelham	0	0	59	59
Rye	0	0	18	18
Whitefield	0	0	10	10
Wilton	0	0	29	29
TOTAL	7	14	322	343

DISTRICT COURT CIVIL CASE ENTRIES

JANUARY 1 TO JUNE 30, 1982

Court	Writs	Landlord & Tenant	Small Claims	Domestic Violence	Total
Auburn	72	22	170	10	274
Berlin	28	4	96	18	146
Claremont	100	19	306	43	468
Colebrook	0	0	10	1	11
Concord	254	55	1,473	31	1,813
Conway	45	5	285	19	354
Derry	287	0	316	0	603
Dover	127	28	323	35	513
Durham	29	2	31	1	63
Exeter	58	20	375	12	465
Franklin	46	5	238	16	305
Goffstown	30	7	123	14	174
Gorham	4	0	46	3	53
Hampton	75	17	210	27	329
Hanover	61	5	72	2	140
Haverhill	12	2	170	3	187
Henniker	7	3	53	3	66
Hillsborough	18	3	353	10	384
Hooksett	50	36	114	9	209
Jaffrey	29	7	107	13	156
Keene	214	39	857	45	1,155
Laconia	158	43	649	37	887
Lancaster	14	0	56	8	78
Lebanon	58	7	166	19	250
Lincoln	9	1	38	7	55
Littleton	20	0	260	10	290
Manchester	557	222	1,792	129	2,700
Merrimack	100	7	224	5	336
Milford	100	13	315	15	443
Nashua	537	272	1,585	136	2,530
New London	14	0	112	5	131
Newport	28	10	203	15	256
Ossipee	29	0	131	4	164
Peterborough	46	3	223	7	279
Pittsfield	10	5	173	9	197
Plaistow	66	9	154	29	258
Plymouth	41	4	403	12	460
Portsmouth	91	74	338	26	529
Rochester	105	31	503	54	693
Salem	123	51	227	9	410
Somersworth	94	10	142	8	254
Wolfeboro	41	4	95	7	147
TOTAL	3,787	1,045	13,517	866	19,215

MUNICIPAL COURT CIVIL CASE ENTRIES

JANUARY 1 TO JUNE 30, 1982

Court	Writs	Landlord & Tenant	Small Claims	Total
Bethlehem	0	0	8	8
Bristol	0	0	31	31
Canaan[1]	0	0	0	0
Epping	0	0	13	13
Farmington	0	1	26	27
Greenville	0	0	0	0
Hinsdale	0	7	22	29
Loudon	0	0	0	0
Newmarket	0	4	17	21
Northumberland	0	0	8	8
Pelham	0	0	26	26
Rye	0	0	11	11
Whitefield	0	0	21	21
Wilton[2]	0	0	13	13
TOTAL	0	12	196	208

1. Canaan Municipal Court has been absorbed by the Lebanon District Court as of February 5, 1982.

2. Wilton Municipal Court has been absorbed by the Milford District Court as of March 16, 1982.

JUVENILE DIVERSION PROGRAMS

In addition to the work of the courts shown in the District Court statistics, there is an additional juvenile caseload which is handled outside the formal court structure through Juvenile Diversion Programs. In 1981 there were 29 such programs in New Hampshire serving approximately 2,000 youths whose cases might otherwise have been handled by the courts.

Diversion programs, which vary in structure from community to community, must be approved by the courts. Youths are usually recommended to these programs either by the police or by the courts themselves. Some 300 volunteers participate in local diversion programs under the direction of a community board, the police or the courts. Some have paid staff to assist them. Others rely on available staff in the municipalities.

The children who are selected for diversion from the court system include those who merely need supervision (CHINS, as designated by RSA 169-D) as well as those who have committed delinquent acts. Generally, youths who commit more serious or repeated offenses are not recommended for diversion. Often the diversion programs function as a one-time second chance for troubled youths to avoid the formal stigma of delinquency. According to a survey conducted by the New Hampshire Comprehensive Children and Youth Project in the fall of 1982, the most common offenses committed by children who were referred to diversion programs were theft, shoplifting and criminal mischief.[1]

Children whose cases come into the diversion programs are sometimes referred for individual or family counseling. Those who have committed offenses are usually required to make restitution to the victims or to the community either by payment of money or by performing some kind of work or service. Some communities provide Big Brother/Big Sister types of programs in which the troubled child is befriended and helped by a concerned adult who can give him or her constructive direction and support.

Diversion programs represent a direct kind of community censure of anti-social behavior and, at the same time, a commitment by individual members of the community to assist and support adolescents in finding constructive solutions to their problems. The survey conducted by the Comprehensive Children and Youth Project indicates that 50% of juvenile arrests in the State could be handled through diversion. The present percentage is far less than that.

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[1] Survey of Juvenile Diversion Programs, Fall 1982, published February 4, 1983, by the New Hampshire Comprehensive Children and Youth Project. See also Juvenile Diversion in New Hampshire: A Handbook for Communities, September, 1981.

DISTRICT COURT JUVENILE CASE ENTRIES

JULY 1 TO DECEMBER 31, 1980

Court	Abused/Neglected Children	Delinquent Children	CHINS	Total
Auburn	0	47	4	51
Berlin	5	46	2	53
Claremont	1	50	3	54
Colebrook	1	21	0	22
Concord	20	70	9	99
Conway	0	13	0	13
Derry	2	122	5	129
Dover	5	167	18	190
Durham	1	15	1	17
Exeter	6	54	11	71
Franklin	7	57	4	68
Goffstown	3	55	3	61
Gorham	0	8	0	8
Hampton	5	81	23	109
Hanover	3	16	0	19
Haverhill	0	10	0	10
Henniker	0	13	1	14
Hillsborough	0	26	0	26
Hooksett	4	19	3	26
Jaffrey	0	49	0	49
Keene	7	143	13	163
Laconia	23	158	9	190
Lancaster	15	33	5	53
Lebanon	8	32	6	46
Lincoln	6	9	0	15
Littleton	5	26	2	33
Manchester	73	432	50	555
Merrimack	0	202	3	205
Milford	5	98	2	105
Nashua	26	681	20	727
New London	0	0	0	0
Newport	1	33	2	36
Ossipee	1	16	13	30
Peterborough	6	18	0	24
Plaistow	3	31	12	46
Plymouth	1	19	2	22
Portsmouth	3	30	6	39
Rochester	19	48	5	72
Salem	3	98	26	127
Somersworth	6	44	3	53
Wolfeboro	0	41	7	48
TOTAL	274	3,131	273	3,678

DISTRICT COURT JUVENILE CASE ENTRIES

JANUARY 1 TO JUNE 30, 1981

Court	Abused/Neglected Children	Delinquent Children	CHINS	Total
Auburn	4	50	3	57
Berlin	4	54	9	67
Claremont	1	43	3	47
Colebrook	0	6	0	6
Concord	21	102	21	144
Conway	5	54	2	61
Derry	12	113	5	130
Dover	10	68	8	86
Durham	0	21	1	22
Exeter	9	30	10	49
Franklin	1	91	4	96
Goffstown	4	35	7	46
Gorham	0	4	0	4
Hampton	8	79	87	174
Hanover	10	41	4	55
Haverhill	3	42	2	47
Henniker	0	10	0	10
Hillsborough	0	26	0	26
Hooksett	1	15	8	24
Jaffrey	5	37	5	47
Keene	14	165	3	182
Laconia	18	139	11	168
Lancaster	6	53	6	65
Lebanon	4	39	1	44
Lincoln	1	1	6	8
Littleton	2	24	2	28
Manchester	98	314	70	482
Merrimack	1	152	1	154
Milford	5	73	9	87
Nashua	14	636	31	681
New London	0	4	1	5
Newport	3	34	18	55
Ossipee	1*	31	2	34
Peterborough	2	39	2	43
Plaistow	3	33	7	43
Plymouth	0	37	1	38
Portsmouth	6	28	14	48
Rochester	30	72	3	105
Salem	4	128	13	145
Somersworth	5	65	14	84
Wolfeboro	1	43	9	53
TOTAL	316	3,031	403	3,750

*Estimate

DISTRICT COURT JUVENILE CASE ENTRIES

JULY 1 TO DECEMBER 31, 1981

Court	Abused/Neglected Children	Delinquent Children	CHINS	Total
Auburn	2	24	10	36
Berlin	1	45	14	60
Claremont	2	88	9	99
Colebrook	5	47	0	52
Concord	14	115	29	158
Conway	0	63	1	64
Derry	26	126	15	167
Dover	9	60	11	80
Durham	3	20	2	25
Exeter	4	25	7	36
Franklin	4	119	1	124
Goffstown	6	69	1	76
Gorham	0	19	0	19
Hampton	0	34	167	201
Hanover	5	27	2	34
Haverhill	13	23	0	36
Henniker	0	3	0	3
Hillsborough	0	41	5	46
Hooksett	4	15	3	22
Jaffrey	1	31	7	39
Keene	15	153	4	172
Laconia	5	89	7	101
Lancaster	0	27	0	27
Lebanon	6	37	5	48
Lincoln	0	20	0	20
Littleton	15*	36*	1*	52
Manchester	82	442	55	579
Merrimack	0	94	10	104
Milford	1	91	6	98
Nashua	17	414	42	473
New London	2	1	1	4
Newport	0	10	5	15
Ossipee	0	28	1	29
Peterborough	4	32	6	42
Pittsfield[1]	0	61	0	61
Plaistow	0	87	4	91
Plymouth	7	14	3	24
Portsmouth	8	45	10	63
Rochester	16	96	7	119
Salem	2	118	11	131
Somersworth	3	41	0	44
Wolfeboro	0	32	0	32
TOTAL	282	2,962	462	3,706

*Estimate

1. Pittsfield became a District Court July 1, 1981. Pittsfield was previously part of the Concord District Court.

DISTRICT COURT JUVENILE CASE ENTRIES

JANUARY 1 TO JUNE 30, 1982

Court	Neglected Children	Abused Children	Delinquent Children	CHINS	Total
Auburn	2	1	26	8	37
Berlin	2	0	42	2	46
Claremont	0	0	80	9	89
Colebrook	1	0	2	1	4
Concord	22	2	122	11	157
Conway	0	1	81	2	84
Derry	1	0	94	17	112
Dover	3	4	44	15	66
Durham	0	0	17	5	22
Exeter	2	2	28	23	55
Franklin	6	4	72	2	84
Goffstown	5	0	63	4	72
Gorham	4	1	1	0	6
Hampton	0	0	38	20	58
Hanover	0	0	14	1	15
Haverhill	7	3	13	2	25
Henniker	1	0	15	0	16
Hillsborough	2	1	18	6	27
Hooksett	0	0	14	8	22
Jaffrey	4	1	46	7	58
Keene	21	6	162	9	198
Laconia	9	2	93	8	112
Lancaster	6	0	45	2	53
Lebanon	7	0	33	9	49
Lincoln	1	0	13	0	14
Littleton	3	0	24	5	32
Manchester	80	0	498	72	650
Merrimack	1	2	103	9	115
Milford	1	1	71	13	86
Nashua	11	3	568	17	599
New London	0	0	5	1	6
Newport	7	3	45	2	57
Ossipee	1	2	38	0	41
Peterborough	2	0	36	1	39
Pittsfield	1	1	23	3	28
Plaistow	5	1	30	4	40
Plymouth	5	2	75	7	89
Portsmouth	4	1	41	15	61
Rochester	27	3	88	4	122
Salem	6	0	54	17	77
Somersworth	3	0	34	8	45
Wolfeboro	0	0	13	0	13
TOTAL	263	47	2,922	349	3,581